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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|------------------------------------|------------------|
| 09/644,390 | 08/22/2000 | Reinhold Berberich | 4326 US | 1781 |
| 7590 09/10/2004 Martin A. Farber Suite 473 866 United Nations Plaza New York, NY 10017 | | | EXAMINER PARTHASARATHY, PRAMILA | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2136 | |

DATE MAILED: 09/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

09/644,390

Applicant(s)

BERBERICH, REINHOLD

Examiner

Pramila Parthasarathy

Art Unit

2136

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 May 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is in response to request for reconsideration filed on May 10, 2004. Original application contained Claims 1 – 7. Applicant has not amended any Claim. No Claims were canceled. New Claim 8 was added. Therefore, presently pending claims are 1 – 8.

Response to Arguments

2. Applicant's arguments filed on May 10, 2004, have been fully considered but they are not persuasive for the following reasons:

Regarding Claims 4 and 7, applicant argued that the cited prior art (CPA) [Siedentop et al. U.S. Patent Number 6,329,909] does not teach, "changing the frequency". This argument is not found persuasive. Siedentop discloses a system to provide a code signal generator for triggering a security unit in which the signal is transmitted to the radio key and the signal is transmitted or received as an altered (changed) with a carrier frequency (Column 4 lines 2 – 10 and Column 8 lines 49 – 65).

Regarding currently added new Claim 8; applicant argued that CPA does not teach about carrier frequency hopping or other modifications of a carrier frequency. This argument is not found persuasive in view of new prior art Windyka (U.S. Patent Number 5,592,179). Windyka teaches an antenna for use with a frequency-hopping signal for transducing electromagnetic signals between space and a corresponding RF port of the antenna (Column 2 lines 19 – 61 and Column 6 lines 52 – 65). The new Prior can be logically combined with the previous prior art rejection of Siedentop to achieve a security device, which can transmit and receive coded information for modulating a spectrum of different carrier frequencies.

Applicant clearly has failed to explicitly identify specific claim limitations, which would define a patentable distinction over prior arts. Therefore, the examiner respectfully asserts that CPA does teach or suggest the subject matter broadly recited in independent claim 1. Dependent claims 2 – 8 are also rejected at least by virtue of their dependency on independent claims and by other reason set forth in the previous office action (Dated February 2004). Accordingly, rejections for claims 1 – 8 are respectfully maintained.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1 – 7 are rejected under 35 U.S.C. 102(e) as being anticipated by Siedentop et al. (U.S. Patent 6,329,909).

Regarding Claim 1, Siedentop discloses: a device for actuating a security device, preferably for securing a motor vehicle against unauthorized use, comprising

a control unit having means for transmitting a first coded electromagnetic signal (stimulus signal) (Column 2 lines 31 – 34),

a portable transmitter (radio key), having means for receiving the stimulus signal and for transmitting a second coded electromagnetic signal (enable signal) (Column 1 lines 63 – 67), and wherein the control unit is connected to the security device and actuates the latter if the enable signal is received and recognized (Column 3 lines 23 – 31), wherein both the control unit and the radio key have means for altering carrier frequency of the coded electromagnetic signals and wherein they alter said frequency during signal transmission in a manner known only to the control unit and to the radio key (Column 4 lines 1 – 10).

Claim 2 is rejected as applied above in rejecting claim 1. Furthermore, Siedentop discloses, wherein: the radio key has a narrowband transmitter, transmission frequency of which is controllable (Column 4 lines 2 – 4, Column 6 lines 22 – 24 and Column 10 lines 36 – 42) and wherein the radio key alters its transmission frequency over intervals of time when transmitting signals (Column 10 lines 36 – 42 and lines 50 – 60).

Claim 4 is rejected as applied above in rejecting claim 1. Furthermore, Siedentop discloses, wherein: manner in which the carrier frequency is to be changed is contained in the stimulus signal as coded information item for transmission to the radio key (Column 2 lines 12 – 16 and Column 8 lines 49 – 54).

Claim 7 is rejected as applied above in rejecting claim 1. Furthermore, Siedentop discloses, wherein the signal transmission takes place over a spectrum of different carrier frequencies and wherein the enable signal contains a coded information item for modulating said spectrum (Column 4 lines 1 – 7 and Column 10 lines 36 – 59).

Claim 3 is rejected as applied above in rejecting claim 2. Furthermore, Siedentop discloses, wherein: said control unit has a tunable narrowband receiver having the same frequency range as the transmitter in the radio key (Column 10 lines 50 – 59).

Claim 5 is rejected as applied above in rejecting claim 4. Furthermore, Siedentop discloses, wherein: the stimulus signal contains a random number and the carrier

frequencies are determined by applying a cryptoalgorithm to said stimulus signal and, in this context, particularly to the random number contained in the stimulus signal (Column 7 lines 64 to Column 8 line 3).

Claim 6 is rejected as applied above in rejecting claim 4. Furthermore, Siedentop discloses, wherein: selection of the carrier frequency at the receiver and transmitter ends is determined, using a coded information item in the stimulus signal, by means of a cryptographic method in the radio key and in the control unit independently of one another (Column 6 lines 17 – 31 and Column 10 lines 50 – 59).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Siedentop et al. (U.S. Patent 6,329,909 hereinafter "Siedentop") in view of Windyka (U.S. Patent Number 5,592,179 hereinafter "Windyka").

Claim 8 is rejected as applied above in rejecting claim 7. Furthermore, Sientop discloses, wherein the signal transmission takes place over a spectrum of different carrier frequencies and wherein the enable signal contains a coded information item for modulating said spectrum (Sientop Column 4 lines 1 – 7 and Column 10 lines 36 – 59). Sientop does not explicitly disclose the transmission via different carrier frequencies constitutes frequency hopping. However, Windyka teaches an antenna for use with a frequency-hopping signal for transducing electromagnetic signals between space and a corresponding RF port of the antenna (Windyka Column 2 lines 19 – 61 and Column 6 lines 52 – 65). Therefore it would have been obvious to one of ordinary skill in the art to combine the teachings of Windyka with Sientop for the transmission to take place over a spectrum of different carrier frequencies to constitute frequency hopping. One of ordinary skill in the art would have been motivated to do so in order to achieve a security device, which can transmit and receive coded information for modulating a spectrum of different carrier frequencies.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed

within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks, Washington, D.C. 20231 or faxed to: (703) 872-9306 for all formal communications. Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Fourth Floor (Receptionist).

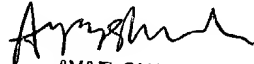
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pramila Parthasarathy whose telephone number is 703-305-8912. The examiner can normally be reached on 8:00a.m. To 5:00p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz Sheikh can be reached on 703-305-9648. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

Pramila Parthasarathy

September 03, 2004


AYAZ SHEIKH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100